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SOCIAL INVESTIGATION AND SOCIAL LEGISLATION

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In these days, when so many public idols are being hurled from their pedestals, and abuses, long undisturbed, are being torn up by the roots, the very word "investigation" has come to have almost a farcical significance. There is, however, a wide difference between haphazard prying into the affairs of others, which listens to hearsay evidence and too often results in the passage of hasty and ill-advised legislation, and authorized, scientific investigation which relies not on conjecture or hearsay but on "first-hand" testimony, and is guided by logic and experience and knowledge of actual conditions rather than mere good intentions.

The appalling disaster in the Triangle Building in the city of New York on March 25, 1911, aroused the state of New York to the necessity of investigating the conditions of labor in its factories. The time has passed when such catastrophes were regarded as a "visitation of Providence." What obvious precautions were neglected? What needless risks were run? These questions were repeated everywhere and an answer insistently demanded. In full conformity, therefore, with public sentiment, the legislature enacted chapter 561 of the laws of 1911 creating the New York State Factory Investigating Commission.

When the legislature considered what the work of the commission should be it concluded that while the loss of life and property by fire was alarming and means should be found to decrease it, there was a daily, an hourly, loss of life and vitality by reason of the unsanitary conditions under which men and women worked—the lack of proper illumination and ventilation, for instance, exposure to extremes of heat and cold and to sudden changes of temperature, exposure also to mineral dusts, acids and poisonous gases. Such conditions called aloud for investigation and improvement.

So the scope of the investigation was made far broader than had been originally intended, and the commission was directed to investigate not alone fire prevention and fire protection in factory

buildings, but to examine and report upon the whole subject of the employment of men, women and children in factories and industrial establishments, including manufacturing in tenement houses, the work of women and children in the canneries of the state, night work by women, child labor, conditions in bakeries, and conditions in what are known as "dangerous trades."

The commission held public hearings and executive sessions in New York City and in all other cities of the first and second class in the state and presented a preliminary report, many of the recommendations of which were embodied in the Labor Law. During this first year 1,336 industrial establishments were covered by the investigation. In these establishments 63,374 wage earners were employed.

By chapter 21 of the laws of 1912 the time of the commission, during which it should continue its investigations, was extended to January 15, 1913. This act extended the jurisdiction of the commission to all cities of the state and also empowered the commission to investigate the general conditions in mercantile establishments. There were 1,338 industrial establishments in 45 cities and giving employment to 125,961 wage earners, covered by the investigation of 1912.

While the commission was anxious to improve the condition of all factory workers, it naturally felt the greatest concern for the women and children employed by factories, *i.e.*, not only working in a factory but for and in connection with a factory. In the first place, the whole question of night work by women was thoroughly investigated by the commission, and, indeed, it may be said that no other investigation revealed conditions more dangerous to health and public welfare than the employment of women at night in the factories of the state. Conditions of life were revealed which seemed certain not only to destroy the health of the women so employed but to threaten the very existence of the young children dependent upon them for nourishment and care.

Besides night work done by women, the commission investigated especially the long hours that women are required to work in factories and for factories, and, finally, the employment of children under fourteen years of age in tenement house manufacturing and in the cannery sheds of the state.

During the night work investigation, one large industrial plant in the central part of the state, employing from 130 to 140 women

on night shift, was visited by the commission's investigators. These women worked for ten hours on five nights of each week, from 7 p.m. to 5.30 a.m. with a break of half an hour at midnight. They were exposed to much dust, great noise, and, in some rooms, intense heat. Most of them being married (the factory prefers married women for night work), in the day-time they took care of their children, did the housework, including the preparation of three meals a day and succeeded in getting an average of four-and-a-half hours of sleep in the twenty-four.

One of the investigators writes: "The women as a whole are a disheartening group, in their oily dust-laden clothes, with drawn white faces and stooping gait."

It is not to be expected that ignorant foreign women should understand the danger to their own health and the health of their children from such living conditions; still less that they should realize the moral danger to the community from the birth of weak, anaemic children, of human beings who are brought into the world without even a fighting chance. That the legislature both realizes the danger and approves of the commission's work is evident from the passage of the bill prohibiting the night work of women in factories.

For thirty years the legislature of New York has at different times struggled with the problem of home-work in tenement houses.

It was felt this work could not be entirely prohibited at this time. Such prohibition would be attacked as unconstitutional. But the state has tried to safeguard both the workers and the public by more and elaborate systems of inspection. Unfortunately, the state has not been able to provide a sufficient number of inspectors, while, on the other hand, the greed of manufacturers has caused the spread of homework until now hundreds of articles of wearing apparel, toys and even foodstuffs are made or finished in the tenement homes of the workers.

The investigation of tenement house manufacturing in New York City was made between October 10 and November 25, 1912. It was found that 87.3 per cent of the home finishers were married women living with their husbands. The sums paid for home-work are pitifully small; an Irish crochet yoke, for instance, brought its maker 9 cents, out of which she expended $2\frac{1}{2}$ cents for thread. Home-work is resorted to by women in the tenement houses to eke out the family income. Not only do the women spend long hours on this

work, but little children, sometimes as young as three and four years of age, are drafted into it. They were found by the commission's investigators making artificial flowers, willowing plumes, running ribbons in underwear and working on foodstuffs and baby clothes. Naturally their health suffers and their education suffers for they must work before and after school and all day Sunday. One little girl of nine said she had to work in the daytime and had no time to play, but that sometimes she was allowed to go out at night "to save the gas." Many cases, too, are reported of very young girls turning to a life of prostitution because they were "tired of work"—tired of the incessant grind of the factory before they had reached the legal age to work in a factory at all.

As for the danger to the public health from manufacturing in unclean and infected tenement houses, the evidence heard by the commission shows that it is appalling. Much of this work is done by ignorant foreign women who cannot be made to see that they ought not to work while their children are ill in the same room or while they are ill themselves. It is then that they "need the money most." Indeed, hundreds of cases were reported to the commission of work done in rooms where there was a contagious or infectious disease—consumption, scarlet fever or one of the loathsome skin diseases. Nor do the manufacturers who thus make the tenement homes of workers an adjunct to their factories take any proper precautions or even make any inquiries when giving out home work as to the sanitary conditions under which it is to be done. One candy manufacturer, for instance, when asked how the meat was picked out of nuts, answered: "They should pick it out with a knife." "But," he added, "we do not give them the knife." Questioned further as to whether the home workers ever cracked the nuts with their teeth he replied carelessly: "They should not do that. I do not know whether they do or not."

The commission's tenement house bills have already passed one branch of the legislature and will probably become law. They prohibit absolutely the manufacture in a tenement house of foodstuffs, dolls, dolls' clothing and children's and infants' wearing apparel. They provide that all tenement houses in which home work is done must be licensed and that such license may be revoked if the Commissioner of Labor finds conditions therein unsatisfactory; that all factories having work done in tenement houses must take out a per-

mit, which may be revoked if the factory does not comply with the requirements of the law, and a register of the names and addresses of all persons to whom home work is given out must be kept by the factory and an "identification label" must be placed on all such home work while it is in the tenement house. Finally, no child under factory age, *i.e.*, less than fourteen years old, shall be allowed to do home work for a factory.

A majority of the commission's investigators were warmly in favor of prohibiting home work altogether. As has been said, however, that could not be done at this time. The next best thing, in the opinion of the commission, was to make the giving out of home work unpopular by making it public. Heretofore the commission's inspectors have obtained the names and addresses of home workers with the greatest difficulty—sometimes false addresses were given them at the factory—and it has been almost impossible to ascertain at the tenement house the name of the manufacturer for whom the work was being done. These difficulties are both removed by the register at the factory and the identification label at the tenement house.

In another field of investigation the commission found women working incredibly long hours, and found, too, that children from three and four to fourteen years of age were employed on work in connection with a factory. This was in the great fruit and vegetable canneries scattered throughout the rural parts of New York state. Here, too, the majority of the workers are foreign—Poles and Italians, for the most part—whom the canners bring out from the city in families and "camp" near the factory in huts scarcely more habitable than the cannery sheds.

The canners say that they are unable to prevent this excessive overwork on the part of women. "The Lord ripens the crops," they are fond of quoting, and when the crops are ripe they must be canned immediately or they become worthless. The canners claim, further, that while the women work for 80, 90 or 100 hours a week during what are known as "rush" periods, there are succeeding rest periods when work is slack or ceases altogether, and that the average number of hours per week throughout the canning season is not, therefore, abnormally high.

During the summer of 1912 the commission inspected 121 out of the 128 canning factories of the state. A canning factory con-

sists of at least three buildings, the cannery shed, where the vegetables are prepared—and it is here that the children work; the factory proper, where the vegetables are canned and cooked; and the storehouse where the cans are packed and from which they are shipped.

The commission had a number of “working investigators,” who found employment in the canneries and so acquired first-hand knowledge of every detail of the work. None of these “working investigators” was employed in canneries where the women were kept at work for more than 80 hours a week. At the public hearing, however, held by the commission at Albany on November 26, 1912, to consider its proposed cannery legislation, it was proved by examination, as well as by the time books of the canneries in question, that women worked 80, 90 and 100 hours during successive weeks, as is shown by the following tables:

Case A

First week.....	88 hours
Second week.....	94½ hours
Third week.....	62½ hours

Case B

First week.....	62 hours
Second week.....	82½ hours
Third week.....	86½ hours

Case C

First week.....	74 hours
Second week.....	74½ hours
Third week.....	105 hours
Fourth week.....	61 hours

In case after case testimony was given by the canners themselves before the commission that women work 100, 110 and 115 hours a week. In one case, also, a woman reached the astounding total of 119¾ hours of work in one week.

It further transpired during the investigation that the possibility of relieving “rush” periods and preserving crops in cold storage had by no means been exhausted by the canners and that in one case, at least, women were kept working for long overtime hours labeling cans. The commission’s bill, which, like the tenement house bill, has already passed one branch of the legislature, limits the number of

hours per week which women may work in a cannery to 54, except that between June 15 and October 15 they may work not more than 6 days, or 60 hours, in any one week or 10 hours in any one day. During the pea crop season, extending from June 25 to August 5, the industrial board to the Department of Labor may permit the employment of women for 66 hours a week, if it finds that such employment will not endanger the health of the workers.

Snipping beans is decidedly work, not play, and the children are further exposed to cold and damp, for the cannery sheds are usually not enclosed. The children are exposed, also, in some cases, to the noise and danger of machinery in the factory proper and are always robbed of their school vacation, often of several weeks or months of school, to swell the family budget by from \$1 to \$2 a week.

The commission's bill forbids the employment of children under fourteen on work in connection with a factory—thus including the cannery sheds.

The tenement house bill and the cannery bill have, as has been said, passed one house of the legislature and will probably become law. A bill, also covering conditions in bakeries—their cleanliness, ventilation, illumination and drainage, as well as the health and cleanliness of the bakers themselves—has, like the tenement house and cannery bills, already passed one house of the legislature. This bill provides that persons operating bakeries shall obtain a sanitary certificate from the Department of Labor, which must be renewed, on inspection, each year. It also prohibits future cellar bakeries which, the commission found, not only constitute the majority of bakeries in New York City, but, from the character of their construction and the unsanitary condition in which they are maintained and operated, constitute a formidable and ever present danger to public health.

The commission submitted thirty-two bills in all to the legislature. The majority of them have already received the signature of the governor and have become law. Such are the fire prevention and fire protection bills, one of whose most important provisions is that limiting the number of workers employed in a factory building to the capacity of the exits; also the bill in relation to the housing of factory employees (referring to the "labor camps" of the canneries; the bill providing for a physical examination of children (from fourteen to sixteen years of age) employed in factories and the cancella-

tion of their employment certificates in case of physical unfitness; the bill preventing night work on the part of women; that providing for sanitary conditions, washrooms, etc., in factories; and, finally, the bills for lessening the danger to life and health in the dangerous trades.

Of these thirty-two bills the most important are those providing for a thorough reorganization of the State Labor Department. This is constructive legislation; it provides the machinery whereby the other recommendations of the commission may be carried into effect. It has become a law, having been passed by the legislature and signed by the governor. The legislature, further, has extended the time of the commission for one year and instructed it "to inquire into the wages of labor in all industries and employments and the conditions under which labor is carried on throughout the state, and into the advisability of fixing minimum rates of wages or of other legislation relating to the wages or conditions of labor in general or in any industry."

At no time has the commission lost sight of the fact that it is an investigating commission and not a prosecuting or persecuting commission. In the various stages of its work—collecting first hand testimony, embodying its recommendations in the form of tentative bills and receiving suggestions on these bills at its public hearings and private conferences—the commission has endeavored to be just and reasonable to all concerned. At these hearings, moreover, the commission has allowed the cross-examination of its own inspectors and investigators by parties in interest and by their counsel—an unusual concession—and also allowed parties in interest to call witnesses and to have their own counsel examine them.

The public hearings were largely attended, and, the commission believes, productive of great good. For even when the manufacturers were opposed to the suggested measures of the commission, they acknowledged that its methods were eminently just and fair, and, to the credit of many of the manufacturers, be it said, that they were willing to meet the commission half way, or more than half way, in the matter of remedial legislation. For instance, at the hearing in Albany on November 25, 1912, devoted to a proposed foundry bill, the Commissioner of the National Association of Founders said:

I have been devoting considerable of my time in endeavoring to get the foundry owners throughout the country to bring about better working conditions which go far beyond anything you have suggested in these measures. . . . It is a business proposition, cutting out the philanthropy and all that sort of thing.

And a very conservative foundry owner who was present added: "We believe the most efficiency is obtained by men who are surrounded by good conditions and who are in well-heated rooms, free from gas, dust and smoke, and furnished with water, good washing and bathing facilities."

Such an attitude on the part of manufacturers—and it is everywhere appearing in New York state—is full of promise for the future.

Returning to the reorganization of the Labor Department, the commission had to consider, at the outset, whether to place it in charge of a body of men or of a single individual. The commission believes that it has solved this problem satisfactorily. It did so after consulting with practically every social worker of prominence in the state of New York and receiving his or her opinion. The commission form of reorganization is created to conduct investigations and to make rules and regulations for the improvement of working conditions within the provisions of the Labor Law; but the Commissioner of Labor, a single individual, is made the executive head of the department and upon him is placed the responsibility of enforcing the laws and regulations. There can thus be no shirking of responsibility or division of power, and at the same time, for deliberative matters the judgment of a body of men is secured.

The commission believes, as a result of its investigations and study of the subject, that the present Labor Law is based on an erroneous theory; namely, the theory that every detail of the requirements for the protection of the health and safety of workers should be expressed within the four corners of a statute. In Europe this theory has long since been abandoned. There the statutes are very broad and general and power is given to administrative boards to make rules and regulations for their application under varying circumstances and conditions.

Under the Labor Law as it is at present framed, a statute may be beneficial at the time of its enactment, but, owing to the adoption of new methods of manufacture or the installation of new machinery, it may become unfair and injurious. Again, a statute may work

admirably in the case of one industry, but seriously hamper the activities of another. The difficulty and delay in amending the statute law and the very formidable danger of making it vague and indefinite in meaning, all force the conviction that the statute law itself should not attempt to cover the details of the proposed enactment, but should be elastic and flexible. In other words, that it should state the minimum and maximum of what is required, leaving the details to be filled in for particular industries and for different times, according to the changing needs and conditions of those industries.

With this idea in view, the commission recommends the creation of an industrial board in the Department of Labor, to consist of the Commissioner of Labor as chairman of the board and four associate members to be appointed by the governor, with the advice and consent of the Senate, for four years, the Commissioner of Labor having an equal vote in all proceedings of the board. The commission recommends that one of the four associate members of the board should be a woman (because women have aided the work of social betterment materially and effectively and there are 400,000 women workers in New York); and that the other three members should be a representative of labor, a representative of the employers and a man of science.

The industrial board shall be a permanent investigating body with power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigation on hand. Further, each member of the board shall have the power to make personal inspections of all factories, mercantile establishments and premises affected by the labor law.

The board shall also have power, within the limits of broad, general statutes, to make, amend and repeal rules and regulations for carrying into effect the provisions of those statutes. Such rules and regulations may apply in whole or in part to particular kinds of factories or workshops or to particular machines, apparatus or articles; or to particular processes, industries, trades or occupations; or may be limited in their application to factories or workshops hereafter established or to machines or apparatus hereafter installed.

The present provision in the Labor Law with regard to adequate ventilation, for instance, has been a dead letter. The industrial board would have the power to fix standards of ventilation, tem-

perature and humidity, to be applied to different industries, under different conditions, and those standards could be changed or modified as circumstances required. The present provision that each occupant of a workroom should have 250 cubic feet of air-space has afforded little or no protection to workers. This hard-and-fast requirement of the law was met by making the ceilings in factory workrooms 15 feet high, while the floor space was so congested as almost to preclude the possibility of escape in case of fire. The commission, in its fire bills, not only provides for adequate floor space, but further requires that the number of occupants in any factory building shall be limited to the capacity of the exits. This provision, together with other provisions for the management and construction of factories looking toward fire protection and fire prevention, is to be enforced by the rules and regulations of the industrial board. But all such rules and regulations must, of course, be consistent with the minimum or maximum requirements specified in the statute itself.

The bureaus of the Labor Department also are to be increased in efficiency. Under the bureau of inspection (and all inspection work is to be concentrated in this bureau) provision is made for a division of factory inspection and one of mercantile inspection. A division of industrial hygiene is also added, to be composed of scientific inspectors, each an expert in his own special line. To these men is given the conduct of investigations of a highly technical character, and the preparation of material for leaflets and bulletins calling attention to dangers in particular industries and the precautions by which they may be avoided.

To the bureau of statistics and information—and the bureau of statistics has done excellent work in the past—is committed the work of collecting and codifying statistical details and information with regard to workers and industry generally; of preparing the industrial directory required by section 49 of the Labor Law; and of printing, publishing and disseminating such information and statistics as the Commissioner of Labor may direct for the purpose of promoting the health, safety and well-being of industrial workers.

Heretofore the Labor Department has been content to act as a "police" department. Its sole object has been the detection and punishment of offenders against specific provisions of the Labor Law. It has failed even in placing before itself as an ideal to be striven for

the true functions of such a department, which is the education of the workers, the establishment of closer and more friendly relations between worker and employer, and the enlisting of their active coöperation, not only in the enforcement of the law but in the steady and constant improvement of working conditions.

There can be no doubt that greater efficiency on the part of the workers means increased profits for the manufacturer, that safeguarding the life and health of his employees pays the employer even from the standpoint of dollars and cents. In addition to this he gains an asset, no less real because it cannot be put down on the credit side of the ledger, in the loyalty of his workmen and their increased willingness to further the interests of an employer who has shown himself mindful of their own.

The story is told of one of the Roman emperors who, on the eve of battle, was wandering in disguise from group to group of his soldiers and listening to them as they weighed their advantages and disadvantages as compared with the enemy. "They outnumber us," said a soldier. "Ah, if we only had a thousand more men!" "How many do you count me?" asked the emperor quietly, stepping out of the darkness.

So it is in times of emergency or crisis. The employer who has considered the welfare of his workers has something to count on in their loyalty, and, other things being equal—and they sometimes are equal—he is less likely to be driven to the wall than the employer who has treated his workmen like machines to be carelessly worn out and as carelessly replaced.

"Thou shalt!" and "Thou shalt not!" must always be said, for unfortunately, there will always remain people who are ready and willing to take advantage. There are, however, many times when "This is the thing to be done," and "This is the best way to do it" may more profitably be said. Perhaps a fair half of the human race are, as Portia says, "not bred so dull but they can learn," and a majority, many of us think a large majority, are accessible to wise kindness. More and more governments are coming to this idea of leading rather than driving. Not all need be lashed because the whip is the only argument that appeals to some. And it is upon this idea of leading, training, education, that the reorganization of the Labor Department is based.